

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**KAREN A. COLES,**

**Plaintiff,**

**v.**

**STEPHEN PERRY, Administrator,  
General Services Administration,**

**Defendant.**

**Civil Action No. 01-732 (JMF)**

**ADDENDUM**

I issued my initial opinion before I heard counsel's argument. The argument convinces me that a brief addendum is in order.

There is another problem in insisting that the defendant be obliged to show a completely independent reason for its actions. It is possible after all for the reasons given by the defendant for its actions to be considered pretextual but nevertheless provide a legitimate reason for the defendant to argue that it would have reached the same result anyway. In this case, a jury could find that Dutton and Henderson were motivated by retaliatory reasons in their insistence for additional medical information culminating in Dr. Butler's evaluation. The jury could also find, however, that Dr. Butler's testimony was truthful and provided a sufficient reason for the defendant's doing what it did, even if the act of seeking Dr. Butler's evaluation was motivated by retaliatory animus. Plaintiff's insistence that the jury find a completely independent reason, other than Dr. Butler's report, arguably "tainted" by the retaliatory motive, would, in my view, preclude the jury from finding that the defendant's agents sought Dr. Butler's report for the

"wrong" reason but that the report nevertheless provided a reason that in itself that would permit the jury to conclude that defendant could have legitimately determined that plaintiff was unfit her job, even if defendant's agents sought that report for an impermissible reason.

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JOHN M. FACCIOLA  
UNITED STATES MAGISTRATE JUDGE

Dated: